IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WA.No. 1343 of 2007()

AGAINST THE JUDGEMENT IN WPC.16764/2007 DATED 01.06.2007

APPELLANT/PETITIONER

STANLEY ANTONY, AGED 46, S/O ANTONY,
INIKKAL HOUSE, C/O. M/S.OCEAN KING HOTEL,
THOPPUMPADY, ERNAKULAM DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS/ RESPONDENTS:

1. THE DISTRICT COLLECTOR, ERNAKULAM.

2. THE REVENUE DIVISIONAL OFFICER,
FORT KOCHI.

3. THE TAHSILDAR, KOCHI TALUK OFFICE.

4. THE VILLAGE OFFICER,
THOPPUMPADY VILLAGE OFFICE, ERNAKULAM DISTRICT.

5. THE LAND REVENUE COMMISSIONER,
OFFICE OF THE LAND REVENUE COMMISSIONER,
THIRUVANANTHAPURAM.

6. THE STATE OF KERALA,
REP.BY THE SECRETARY TO THE GOVERNMENT,
REVENUE DEPARTMENT, THIRUVANANTHAPURAM.

BY SR. GOVERNMENT PLEADER SMT. R. MEERA.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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W.A. No. 1343 OF 2007

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Dated this the 22nd June, 2007

J U D G M E N T

H.L. Dattu, C.J.:

This appeal arises out of the judgment delivered by the learned single Judge in W.P.(C) No. 16764 of 2007 dated 1st June, 2007. By the impugned judgment, the learned single Judge has rejected the Writ Petition.

2. The facts in brief are:

The Tahsildar, Kochi had initiated proceedings under the provisions of the Kerala Land Conservancy Act, on the ground that the petitioner has encroached upon an extent of 02.276 cents of land in Sy. No. 2421/1/Thoppumpady Village. Aggrieved by the said notice and the order passed, the petitioner had approached the Revenue Divisional Officer, Fort Kochi, the second respondent herein . Concurring with the notice and the order passed by the Tahsildar, the Revenue Divisional Officer had rejected the appeal filed by the petitioner. Aggrieved by the order of the Revenue Divisional Officer, the petitioner had filed a Revision Petition before the District Collector, Ernakulam. Even that

Revision Petition is also rejected. Aggrieved by the aforesaid orders, the petitioner was before this Court in Writ Petition No. 16764 of 2007.

3. It was the stand of the petitioner before the learned single Judge that he is the owner and is in possession of the aforesaid land, having purchased the same under various registered documents executed by the competent persons before the Sub Registrar of Assurances. The respondents had contended before the learned single Judge, that, the land in question is a Government land. Since there was dispute with regard to the ownership of the land in question, the learned single Judge has thought it fit to direct the petitioner to file an appropriate civil suit, as provided under section 20 of the Kerala Land Conservancy Act. The correctness or otherwise of the impugned order is the subject matter of this Writ Appeal.

4. As we understand, the petitioner claims that he is the owner of 02.276 cents of land in Sy.No. 2421/1/Thoppumpady Village. However, it is the case of the respondents that it is a Government land and the petitioner has encroached upon that property. These are all disputed facts and these facts cannot be resolved in a petition filed under Article 226 of the Constitution of India. It only means, that to resolve the said dispute, the petitioner has to approach the appropriate forum which can record the

evidence of the parties to the lis.

5. Keeping that aspect of the matter in view, the learned single Judge has rejected the Writ Petition, but has granted liberty to the petitioner to approach the civil court, for redressal of his grievances. In our opinion, the reasoning and the conclusion reached by the learned single Judge cannot be characterized either as arbitrary or illegal. Therefore no interference is called for in this Writ Appeal. Accordingly, it requires to be rejected and it is rejected.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

lk/DK